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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,348	10/11/2001	Erwin Tomm	TMM 2 0006	9778

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EXAMINER

MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
3679	3

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/975,348	TOMM, ERWIN
	Examiner	Art Unit
	Victor MacArthur	3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11 October 2001.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the limitation "said screw" is recited in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. A "screw" has not been previously described in the claim itself or in the base claim from which it depends.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 9-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5813258 to Cova et al.

As to claim 7, Cova discloses (figs. 1-6) a telescoping pole apparatus comprising: a first pole section (144) defining a first bore; a second pole section (140) slidably located in the first bore of the first pole section in a telescoping arrangement; a lock (18, 148) connected to the first pole section and adapted to secure the second pole section axially relative to the first pole

section, the lock comprising: a base (lower portion of 148) defining an axial through-bore, wherein an end portion of the first pole section is located in the axial throughbore; a selectively radially constrictable and expandable collar (upper portion of base 148 serves as a collar) connected to the base and defining an opening aligned with the axial through-bore, the second pole section projecting from the first bore of the first pole section and through the opening of the collar, the collar, when radially constricted, firmly engaging and retaining the second pole section (via 148) in an axially and rotatably fixed position relative the first pole section; a fastener (18) connected to and frictionally engaged with the collar so as to be restrained against unintended rotation relative to the collar, the fastener comprising a threaded end that projects outwardly from the collar; and a control member (110) that mates threadably with the threaded end of the fastener, the control member selectively manually rotatable relative to the fastener in first and second directions (clockwise and counterclockwise) to constrict and expand the collar radially, respectively.

As to claim 9, Cova discloses (figs. 1-6) the telescoping pole apparatus as set forth in claim 7, further comprising: a neck (portion of 148 just above the base) projecting outwardly from the base (lower portion of 148), wherein the collar (upper portion of base 148 serves as a collar) is connected to the neck and axially spaced from the base.

As to claim 10, Cova discloses (figs.1-6) the telescoping pole apparatus as set forth in claim 9, wherein the collar (upper portion of base 148) comprises first and second collar portions (left and right halves of upper portion of 148) that are connected to and project outwardly from the neck (portion of 148 just above the base), the first and second collar portions terminating in

respective first and second terminal ends (150) that are spaced apart from each other and defined therebetween a gap in the collar.

As to claim 11, Cova discloses (figs.1-6) the telescoping pole apparatus as set forth in claim 10, wherein the first and second terminal ends of the first and second collar portions (150) define respective first and second apertures (receiving 18) aligned with each other, wherein the fastener (18) extends through aligned first and second apertures.

As to claim 12, Cova discloses (figs.1-6) the telescoping pole apparatus as set forth in claim 11, wherein the fastener (18) comprises a head (received by 139) opposite the threaded end (110) and a portion adjacent the head (cam surface of 139) that frictionally engages the first terminal end of the first collar portion (150) whereby the fastener is held against unintended rotation relative to the first and second collar portions upon rotation of the control member (110) relative to the fastener.

As to claim 14, Cova discloses (figs.1-6) the telescoping pole apparatus as set forth in claim 7, wherein the base and collar are defined as a one-piece molded plastic construction.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8 and 15-17 rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5813258 to Cova et al. in view of Schlegel et al. (USPN 4575063).

Regarding claims 1 and 15-17, Cova discloses (figs. 1-6) a lock for temporarily fixedly securing first and second associated pole sections in a telescoped arrangement, the lock comprising: a base (lower portion of 148) defining an axially extending through-bore (inner diameter of 148) adapted for close sliding receipt of an end portion of a first associated pole section (144); a neck (portion of 148 just above the base) projecting from the base; a collar (upper portion of base 148 serves as a collar) defining an opening aligned with the axially extending through-bore of the base, the collar adapted for close sliding receipt (via 144) of a second associated pole section (lower section of 140) partially telescoped into the first associated pole section and connected to the neck (via 144), the collar defined by first and second collar portions (left and right halves of 148) connected to the neck and terminating in respective first and second ears (150) arranged in spaced-apart relation to each other, the ears defining respective first and second bores (receiving 18); a screw fastener (18) extending through the first and second bores between the first and second ears, the fastener including a head (110) abutting said first ear, a first portion (139) frictionally engaged (at cam surface) with a portion of the first ear that defines the first bore to inhibit unintentional rotation of the fastener and a threaded distal end (received by 110) extending through the second bore defined in the second ear and projecting outwardly from the second ear; a lever (26) and a head (110) defining a threaded aperture that is threadably engaged with the threaded distal end of the fastener. Cova does not disclose that the lever is located on the head. Schlegel teaches (figs.1-9) a lever (15) located on a head (14) for the purpose of reducing the required applied force for tightening (col.3, ll.18-21). The lever is movable rotatably relative to the threaded distal end of a fastener (11) between an unlocked position, wherein a collar (4) is expanded and slidably receives and accommodates a

second associated pole section (1), and a locked position, wherein the collar is constricted and a head (14) of the leaver is advanced on the threaded distal end of the fastener toward the head of a fastener and urges a second ear (12) toward a first ear (second 12) to constrict the collar radially into frictional gripping engagement with a second associated pole section received in the collar. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the lever and head of Cova such that the lever is located on the head, as taught by Schlegel, for the purpose of reducing the required applied force for tightening (col.3, ll.18-21).

As to claim 2, Cova discloses (figs. 1-6) the lock as set forth in claim 1, wherein each of the first and second collar portions (left and right halves of 148) are spaced axially from the base (lower portion of 148).

As to claims 3 and 14, Cova discloses (figs. 1-6) the lock as set forth in claims 1 and 7, wherein the base (lower portion of 148), the neck (portion of 148 just above the base) and the collar (upper portion of 148) are defined as a one-piece construction. Cova does not disclose the material choice as plastic. It has generally been recognized that selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art.

In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to use a plastic material to construct the base, neck and collar of Cova, as such practice is a design consideration within the skill of the art.

As to claim 4, Cova discloses (figs. 1-6) the lock as set forth in claim 1, wherein the first portion of the fastener (18) defines a cylindrical conformation that is located in the first bore defined by the first ear (150) with a tight frictional fit.

As to claim 5, Cova discloses (figs. 1-6) the lock as set forth in claim 1, wherein the axially extending through-bore (inner diameter of 148) defines a first and second cylindrical portions, the second cylindrical portion (inner portion of 148 covered by the lower portion of 148) having a smaller diameter (when clamp 148 is tightened) than the first cylindrical portion (inner portion of 148 below slot 146) and located axially between the first portion and the neck (portion of 148 just above the base).

As to claim 8, Cova discloses (figs. 1-6) the telescoping pole apparatus as set forth in claim 7, comprising a head (110) defining a threaded aperture that receives the threaded end of the fastener (18); and a lever (24) including a shank extending from another head (139) and defining a wide flat tab (152). Cova does not disclose that the lever is located on the first threaded head. Schlegel teaches (figs. 1-9) a lever (15) located on a threaded head (14) for the purpose of reducing the required applied force for tightening (col. 3, ll. 18-21). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the lever and threaded head of Cova such that the lever is located on the threaded head, as taught by Schlegel, for the purpose of reducing the required applied force for tightening (col. 3, ll. 18-21).

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5813258 to Cova et al. in view of Sellers (USPN 4234309).

As to claims 6 and 13, Cova discloses (figs. 1-6) the lock as set forth in claims 4 and 12, comprising a fastener. Cova does not disclose the fastener to have a left-handed double lead thread. Sellers teaches (col.2, 1.57 – col.3, 1.) a fastener that is left-hand and double threaded for the purpose of increasing thread area and more firmly seating the screw. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to replace the screw of Cova with the left-hand double threaded screw of Sellers for the purpose of increasing thread area and more firmly seating the screw.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to locks for securing pole sections:

USPN 5664904 to Hapgood et al.;

USPN 5022672 to Kawai;

USPN 5918997 to Hsieh; and

USPN 4596484 to Nakatani.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (703) 305-5701. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (703) 308-1159. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*VLM*  
VLM  
August 22, 2002

  
*Lynne H. Browne*  
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